

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STANDARD OPERATING PROCEDURE

VI. BARGAINING UNITS

A. Purpose

The purpose of this SOP is to provide guidelines, references and procedures for determining correct bargaining unit placement of employees in the classified and partially exempt services.

B. Scope

This SOP applies to all positions in the classified service and partially exempt service. Positions that are not included in existing collective bargaining units are designated as the "excluded" unit. This SOP does not apply to the exempt service or the bargaining units in the exempt service.

C. Authority

AS 23.40.090: Alaska Labor Relations Agency (ALRA) has authority to designate bargaining units.

ALRA orders and decisions regarding unit clarifications

D. Resources and Guidelines

Bargaining unit (BU) determinations are discussed in various ALRA Orders and Decisions. Complete sets of ALRA Orders and Decisions are retained in the Labor Relations Section and are available through the Alaska Labor Relations Agency website. Files with decisions relating to classification and bargaining units are kept within the Classification Section.

E. Units of Employees in Classified Service Subject to Collective Bargaining

1. General Government (GG, GC, GY): Statewide unit of classified, nonsupervisory employees of the Executive Branch not included in another bargaining unit. The unit includes technical, professional and clerical personnel.
2. Supervisory (SS): Statewide unit of classified, supervisory employees of the Executive Branch not included in another unit.

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**STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL**

STANDARD OPERATING PROCEDURE

3. Labor, Trades and Crafts (LL): Statewide unit of classified, nonsupervisory, trades and crafts employees of the Executive Branch.
4. Confidential (KK): Statewide unit of classified employees in the Executive Branch who assist and act in a confidential capacity to a person who formulates, determines, and effectuates management policies in the area of collective bargaining.
5. Public Safety (AA, AP): Classified, nonsupervisory, nonconfidential employees of the Department of Public Safety who have primary responsibility for the prevention and detection of crime and the enforcement of State laws (fish and game, penal, traffic or highway) and require certification as a police officer by the Alaska Police Standards Council. This unit also includes classified, nonsupervisory, nonconfidential employees of the Department of Transportation and Public Facilities who have primary responsibility for international airport safety and fire protection, and require certification by the Alaska Police Standards Council.
6. Correctional Officer (CO): Classified, nonsupervisory, nonconfidential employees who have primary responsibility for the safety and security of State correctional centers and inmates, and require certification by the Alaska Police Standards Council.

E. Employees Not Currently Included in Collective Bargaining Units

1. Partially Exempt (PX): Positions designated partially exempt by statute or Personnel Board (See SOP 07-IX)
2. Excluded (EE): Positions in the classified service which ALRA has specifically excluded from existing bargaining units by order and decision; positions for which no unit has petitioned to represent; and positions excluded from others units by mutual agreement.

G. Procedures for Bargaining Unit Determinations.

The departmental classifier is responsible for initially recommending the appropriate collective bargaining unit assignment. Except in the case of new positions, the Division of Personnel shall make the final determination, subject to the appeal process provided by ALRA and collective bargaining agreements.

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STANDARD OPERATING PROCEDURE

1. New position: The bargaining unit will be determined consistent with ALRA regulations and decisional guidelines, and shall be set forth in the memorandum that allocates the position.
2. Vacant position: The position is to be placed in the appropriate bargaining unit as stated on the allocation memorandum. If the department classifier is recommending a BU change, an asterisk should be entered in the BU box and the following statement included in a note: "The position will be reviewed for appropriate BU placement."

The affected union must be notified in writing in accordance with applicable collective bargaining agreement provisions. The effective date of the bargaining unit change will be the date the union is properly notified.

3. Filled Position: The procedure to follow when recommending the movement of a filled position between collective bargaining units is as follows:
 - a. Prepare the allocation memorandum. Enter an asterisk under BU in the recommended action. Include the following statement in a note, "The position will be reviewed for appropriate BU placement."
 - b. The Division of Personnel notifies the incumbent's union by letter requesting its concurrence.
 - 1) If there is no response from the union within the time frame provided in the collective bargaining agreement, or there is concurrence, the Division of Personnel will send a memorandum of notice to the department specifying the effective date, which will be the 1st or 16th of the month immediately following the date of the memorandum.
 - 2) Should the union disagree with the recommended bargaining unit change, the union or the Division of Personnel (based on collective bargaining agreement provisions) will submit the issue to ALRA for determination. A unit clarification hearing will be set. No change to the position's bargaining unit determination will occur until after ALRA has reviewed the issue and made the final determination. When a decision is received, the Division of Personnel

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STANDARD OPERATING PROCEDURE

will notify the employing agency of the decision and the effective date for its implementation.

4. Movement of positions between bargaining units and the PX service is discussed in SOP 07-IX.

5. Application of the Supervisory Employee Definition

- a. **Definition:** "Supervisory employee" means an individual, regardless of job description or title, who has authority to act or effectively recommend action in the interest of the public employer in any one of the following supervisory functions, if the exercise of that authority is not merely routine but requires the exercise of independent judgment:

- 1) employing, including hiring, transferring, laying off, or recalling;
- 2) discipline, including suspending, discharging, demoting, or issuing written warnings;
- 3) grievance adjudication, including responding to a first level grievance under a collective bargaining agreement. (8 AAC 97.990 (a) (5))

This definition applies to all employers covered by the Alaska Public Employment Relations Act and necessarily uses terms applicable to a broad range of public employers. In applying the definition to State employment, it must be read to reflect State employment practices and terms. "Transferring", for example, includes hiring an employee with transfer rights; "Recalling" includes accepting a recall of a laid off employee; and "Hiring" includes promotion of a current employee as well as the rehire of a former employee.

- b. **Supervisory status:** Supervisory status is not defined by the percentage of time the supervisor spends supervising or the number of employees supervised, but by the types and level of authority assigned. To be in the Supervisory Unit, a significant purpose of the incumbent's job must be the supervision of and responsibility for other employees. This authority distinguishes the position from nonsupervisory positions in the work unit in that the incumbent possesses the authority to act or effectively recommend action in the interest of the employer. Does the employee possess the authority to take or effectively recommend the actions described in 1), 2) or 3) of

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STANDARD OPERATING PROCEDURE

the definition? Does the employee effect the action? Are recommendations made by the employee routinely considered? Are recommendations rarely overturned? Does the employee exercise independent judgement? If the answer to these questions is yes, the employee is supervisory.

Conversely, employees who have authority to take only routine actions for the supervisory functions listed in 1), 2) or 3) of the definition, are not supervisory employees. Actions and work are considered routine if the employee follows and does not deviate from established guidelines. An example of diffused authority, which results in routine actions, is a hiring action, which takes place within strict parameters and structured interviews. However, if the supervisor makes the decision as to the process to use, as well as whom to recommend for employment, there is evidence of independent judgement.

- c. To apply the definition, review the position description to determine if the subject employee maintains an employer-employee relationship with subordinate State probationary or permanent positions. Organization structures and reporting relationships for positions in the same division or work unit can help determine who has authority for supervisory functions. Classifiers therefore use organization charts and questionnaires as well as position descriptions to help determine who has supervisory authority.
- d. Special issues
 - 1) **Authority to transfer:** When determining the authority given to a supervisory employee for transfer, layoff and recall functions, one must consider the whole process and not limit consideration to an isolated action. Authority to transfer is more than changing the PCN for an employee. Actions that should be considered as transfers are:
 - (1) reassigning work between positions without regard to job class; (2) selecting an employee for a vacant position who is eligible for transfer, with or without a formal recruitment; and (3) transferring positions and the incumbents into and out of the work unit. Transfers initiated by a supervisor may involve more than one job class.

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

STANDARD OPERATING PROCEDURE

- 2) **Layoff and recall:** Actions that involve layoff include determining or recommending the work that will be either reassigned or not done. Recall action involves determining if a position will be filled with a laid off employee, or left vacant.
- 3) In all cases the employee does not have to actually have taken the action, but rather must clearly have the authority to take or cause the action.

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